

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
MARSHALL DIVISION**

TQP DEVELOPMENT, LLC,

Plaintiff,

v.

ADOBE SYSTEMS INC.,

Defendant.

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Case No. 2:12-CV-570-JRG-RSP


ORDER

Before the Court is Defendant Adobe Systems, Inc.'s Motion to Dismiss Complaint for Failure to State a Claim and to Strike (Dkt. No. 16, filed November 1, 2012). The Magistrate Judge filed a report recommending that the motion be denied. (Report and Recommendation, Dkt. No. 62).

Adobe objects to the Report and Recommendation, in part, on the grounds that TQP's now disqualified counsel participated in the briefing and argument on the motion to dismiss, the Court finds that Adobe has not been prejudiced by disqualified counsel's participation. It is clear from the Report and Recommendation that the resolution of the motion did not turn on any confidential information belonging to Adobe. The Court observes that nearly identical motions to dismiss have been filed by several other defendants represented by the same defense counsel, and that resolution of each motion has been identical. Accordingly, this objection is **OVERRULED**.

The Court finds that remainder of Adobe's objections are without merit, and are hereby OVERRULED. The Court hereby ADOPTS the Report and Recommendation. Accordingly, Adobe's Motion to Dismiss the Complaint for Failure to State a Claim and to Strike (Dkt. No. 16) is **DENIED**.

So ORDERED and SIGNED this 5th day of September, 2013.



RODNEY GILSTRAP
UNITED STATES DISTRICT JUDGE